

## **Holliston Planning Board Meeting Minutes of May 18, 2017**

**In Attendance:** Chairman David Thorn, Geoffrey Zeamer, Karen Apuzzo-Langton and Josh Santoro. Warren Chamberlain was absent.

**Call to Order:** The Chairman called the regular meeting to order at 7:00 p.m. in the Selectmen's Meeting Room #105 of the Town Hall, 703 Washington Street.

### **General Business:**

#### Approval of Minutes

On a motion by Mr. Zeamer, seconded by Mrs. Langton, the minutes of May 4, 2017 were approved as drafted.

#### Site Plan Review of American Durafilm Co., Inc., 55 Boynton Road

David Faist, PE of McClure Engineering, Inc. of Charlton, MA was present along with American Durafilm President, Mack Hendrick to discuss the company's proposed 5,000 s.f. building addition (part fabrication, office and storage space in addition to the existing 15,000 s.f. building), 10 additional parking spaces, new loading area and new stormwater management system (stormwater infiltration basin). The company manufactures high performance plastics, currently has 28 employees in Holliston and has been at this site since 1986.

The Conservation Commission will review the proposal again on May 30<sup>th</sup> as TetraTech is completing peer review on proposed stormwater upgrades. No departmental comments were received.

Members were in agreement on issuance of a Certificate of Action with the following Findings and Conditions of Approval pending Conservation Commission finalization: Having reviewed all the application materials filed by the Applicant and its representatives and the representatives of the Town and having viewed the site, the Planning Board has determined that the Application for Site Plan Review is consistent with the requirements of Section VII of the Holliston Zoning By-Law and Section 7.3 of the Planning Board Regulations. The Board also finds that the proposal meets the General Conditions for approval specified in Section VII (2)(a-g) of the Holliston Zoning By-Law and Section 7.11 of the Planning Board Regulations.

### **CONDITIONS OF APPROVAL**

The Board's decision to grant the Application for Site Plan Review is subject to the following conditions:

1. **The revised plan set shall be endorsed by the Planning Board and presented to the Inspector of Buildings with the application for building permit.** Unless amended with the approval of the Planning Board, the endorsed plan set shall be the plan of record and construction shall proceed in accordance with the improvements shown on said plan and this Certificate of Action.
2. No corrections, additions, substitutions, alterations or any changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board. Any requests for modifications shall be made in writing to the Planning Board for review and approval and shall include a description of the proposed modification, reasons the modification is necessary, and any supporting documentation.

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3. A copy of this decision shall be kept on site and shall be made available to all site contractors.
4. Prior to commencement of authorized site activity, the Applicant shall provide to the Planning Board Office the name, address and business phone number of the individual(s) who shall be responsible for all activities on the site. Additionally, the Police and Fire Departments should be provided with an emergency notification sheet.
5. During construction the Applicant shall perform daily cleanup of construction debris caused by the site construction, including soil on Town streets.
6. Prior to issuance of a Certificate of Compliance from the Conservation Commission, the Applicant shall submit an as-built plan stamped by a professional engineer certifying that all site improvements are completed in accordance with the approved plan. The Applicant shall submit a statement certifying that all conditions of approval of this decision have been met.

No special conditions were imposed.

Constitution Village 6 Construction Extension/Memorandum of Understanding (MOU)

Atty. Bobrowski and Ali Parand, PE of AP Associates were present representing the Board as well as Atty. Beattie and Elizabeth Mainini, PE., of Guerriere and Halnon, Inc., representing Constitution, LLC (Fafard). Atty. Bobrowski gave an update on the MOU draft and the points of impasse. The most recent draft was circulated for review. He continued editing the document as the discussion progressed. The notion of additional peer review (geotechnical) was discussed.

Mr. Parand noted that the schedule has been adjusted significantly to the end of the 2018 construction season. He expressed frustration with the lack of work on mitigation measures, ongoing work at the site and confirmed he has not been asked to provide any inspections at the site since November.

Ms. Sherman recommended that the MOU not be endorsed as drafted based on the ongoing work at the site in Phase II and the lack of progress for the past 6 months on addressing any of the deficiencies noted. Mrs. Langton and Mr. Santoro expressed frustration with the lack of progress and the bad faith of the developer. The Chairman noted that the developer has been working steadily but has not made progress on any of the issues identified in the draft. Mr. Zeamer noted that the history in Town with this developer and this project does not give him faith in the ability to successfully execute any negotiated settlement.

Ms. Mainini reiterated her position on the completion of the project and progress since Fall 2016. She noted that she had laid out a protocol for Fafard to follow given that some of the site improvements have been installed for over a decade; no strict compliance with the Subdivision Regulations is possible. The proposed schedule was reviewed.

It was asked of Atty. Bobrowski, "What can be done?" He stated that that Board could insist upon strict compliance with the regulations or process requests for waivers. He added that this situation has escalated outside the normal regulatory realm and parameters under the Subdivision Control Law. The MOU approach was based on compromise (i.e. Is it functional?), not enforcement. The MOU has been drafted as a "side deal" with essentially a one-year timeframe in play. Any lack of performance could be followed with litigation in the future. If

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the Board decides to pursue legal options (i.e. the process of following MGL c. 41, s. 81-Y, last paragraph), discussion should stop and strategy should be discussed in a future Executive Session.

Ms. Mainini asked that if there no extension being granted, is work allowed to continue? Atty. Bobrowski noted that the result should be automatic rescission of the subdivision with no work. Any work would be done at their own risk.

Approval Not Required Subdivision(s)

On a motion by Mr. Santoro , seconded by Mr. Zeamer, the members endorsed öPlan of Land, Lots 38A-42A, Old Cart Path, Holliston, MAö dated March 27, 2017, prepared by Guerriere & Halnon, Inc., the plan realigns these lots to accommodate driveway and septic placements on the south side of Old Cart Path beyond Minuteman Circle.

Highlands at Holliston ö Construction Extension

Mrs. Langton made a motion to extend the deadline to September 8, 2017 with review of status to coordinate with opening and closing of the warrant for the Special Town Meeting. Seconded by Mr. Santoro with all in favor.

**Adjournment:** The meeting was adjourned at 8:50 p.m. on a motion made and duly seconded. The next meeting was scheduled for May 24, 2017 at 6:30 p.m. for the single purpose of Executive Session for legal strategy regarding Constitution Village definitive subdivision construction extension and enforcement.

Respectfully submitted,

Karen L. Sherman, Town Planner

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